CHAPTER XIX

CONTROVERSY WITH COLOMBIA

Seldom in the history of international relations has a controversy afforded more grounds for honest difference of opinion than the issue between the United States and Colombia, growing out of the revolution and formation of the new Republic of Panama. The most careful and unprejudiced study still may leave room for doubt as to the real merits of the case.

In 1903, after the United States had decided to build an Isthmian Canal, preferably at Panama, but if that route were not available at Nicaragua, a treaty was entered into at Washington between the Governments of the United States and Colombia. This Hay-Herran treaty, as it was known, in simple terms provided that the United States would pay Colombia $10,000,000 in cash, and $250,000 a year after the completion of the canal, if the Republic of Colombia would agree to permit the New Panama Canal Company to sell its concession and property to the United States. This treaty, according to President Roosevelt, was entered into under negotiations initiated by the Republic of Colombia. The treaty was ratified by the United States Senate, and was then sent to Colombia for its ratification.
At the time the treaty was pending in the Colombian Congress, the President of the Republic was a man who had been elected Vice President, but who had kidnapped the President with a troop of cavalry and shut him up in an insanitary dungeon where he soon died. The Vice President thus became the head of the Government. Anyone who knows conditions in such countries as Colombia, understands that a President has no use for a Congress except to have it register his own will. The President of Colombia at first advocated the negotiation of the treaty, but he repudiated it after it had been signed, and then declared that if the Colombian minister to Washington were to return to Colombia he would be hanged for signing it. The result of this change of front was that the treaty was rejected by the Colombian Congress. All sorts of stories were put abroad in Colombia to arouse opposition to it. One was that the United States would make $180,000,000 out of the canal deal the minute the treaty was ratified by Colombia. It was claimed by the Colombian Government that the constitutional prohibition of the cession of territory to a foreign state would have to be changed by amending the Constitution before the Congress could legally ratify the treaty.

How little the President of Colombia respected the laws of his country is shown by a dispatch received by the Government at Washington after the secession of Panama, in which it was promised that if the United States would assist Colombia in putting down the Panama revolution, the next Colombian Congress would ratify the rejected
treaty. Or, failing that, the President would declare martial law, by virtue of vested constitutional authority when public order is disturbed, and ratify the canal treaty by presidential decree. If the Washington Government did not like such a proposal, the President of Colombia would call an extra session of Congress and immediately ratify the treaty.

The real cause of the failure of the Hay-Herran treaty is not difficult to discover. The concession of the New Panama Canal Company under one of its renewals expired October 31, 1893. It was then extended for a year, and, in 1894, was extended again for a period of 10 years. Still another extension was granted, which carried the date of expiration to October 31, 1910. This last extension was granted by the President without the consent of the Colombian Congress. In 1903, when the Hay-Herran treaty was pending, the validity of this last extension was denied, and the assertion made that on October 31, 1904, all of the rights and property of the New Panama Canal Company would revert to the Colombian Government.

The United States had agreed to pay to the New Panama Canal Company $40,000,000 for its concession and property. According to Representative Henry T. Rainey, of Illinois, who for years led the attack in the United States Congress on the acts of President Roosevelt in connection with the Panaman revolution, the purpose of Colombia in defeating the treaty was to wait until the expiration of the concession, when all of the property of the canal company would revert to
Colombia, and it could then sell it to the United States and get the $40,000,000, or any other amount it could persuade the United States to pay.

Of course, the New Panama Canal Company did not look upon such an arrangement with any degree of complacency. It felt that it was a deliberate scheme upon the part of the Colombian Government to mulct it out of its property and its rights. As a result it was naturally ready to lend aid and encouragement to any movement which would circumvent this purpose of Colombia. It found conditions in Panama just what it might have wished.

The people of Panama felt that they had the same sort of grievance against Colombia that the people of the American colonies felt they had against England in 1776. The governors of the province were, with few exceptions, sent there from Bogota, and were entirely out of sympathy with the people of Panama. The taxes collected at Panama were carried to Bogota, as a rule, and the voice that the people of the Isthmus had in the Government of Colombia was negligible. Furthermore, they felt that they were entitled to their sovereignty.

After the countries of tropical America had thrown off the yoke of Spain, Panama found itself too small to stand alone, and accepted an invitation from Bogota to put itself under the Government there with the understanding that it was to retain its sovereignty. It soon found that this agreement was not respected at Bogota. Almost immediately there were attempted revolts and, in
1840, the Isthmus again won complete independence. The Confederation of New Granada promised that the people of the Isthmus should have better treatment, and it was set forth in the constitution of New Granada that Panama was a sovereign state, and that it had full right to withdraw and set up an independent government at any time. In 1885 a new constitution was proclaimed by Colombia, which had succeeded New Granada, and this constitution deprived Panama of all its rights as a sovereign state, and made it a province under the control of the Federal Government at Bogota. Upon these grounds Panama claimed that she was a sovereign state temporarily under the duress of a superior government. After the defeat of the Hay-Herran treaty the inhabitants of Panama knew that if the treaty failed and no other steps were taken, the Nicaraguan route would be followed and Panama would become almost a forgotten region instead of a land of great opportunity.

The consequence was that the Panamans lent willing ears to the suggestion of the representatives of the New Panama Canal Company that they should undertake a revolution to be financed by the canal company. Two representatives of the New Panama Canal Company working along independent lines were trying to bring about the revolution. One of these was Philippe Bunau-Varilla, formerly chief engineer of the Old Panama Canal Company, but who had become estranged from the New Panama Canal Company. The other was William Nelson Cromwell, for years general counsel of the Panama Railroad Company,
and who, in his suit against the New Panama Canal Company for an $800,000 fee, claimed to have engineered and directed the revolution. M. Bunau-Varilla had some stock in the canal company and a great deal of pride in seeing realized the undertaking to which he had committed the best years of his life.

Coming to New York on another mission, he met Dr. Amador, who was one of the Panamans desiring the independence of his country. According to the testimony of M. Bunau-Varilla, which is borne out by documentary evidence, he and Dr. Amador worked out the plan for the revolution. He declares that the documents were drawn in the Waldorf-Astoria Hotel and as far as they were written in Spanish, they were copied letter by letter by an English stenographer who knew no Spanish, in order that there might be no possibility of the secret leaking out. He declares that the whole project of the revolution as it was carried out was conceived by him in cooperation with Dr. Amador, and that William Nelson Cromwell, the other factor in the situation, knew nothing about what was going on. He also asserts that William Nelson Cromwell had promised to introduce Dr. Amador to Secretary of State John Hay, but that later Dr. Herran, the representative of Colombia, found out what was going on and wrote a letter of warning to Mr. Cromwell as to the consequences which would come to the Panama Railroad, of which Mr. Cromwell was the representative, if that organization should give aid or comfort to the projected Panama revolution. Thereupon, according to M. Bunau-
Varilla, Mr. Cromwell turned his back upon Dr. Amador, although it has been claimed by some that this was only a ruse on the part of Mr. Cromwell to shield himself and his company from responsibility. About this time M. Bunau-Varilla borrowed $100,000 in France to finance the revolution, pending the recognition of the new Republic by the United States. Other money was forthcoming later.

The revolution itself, which took place in November, 1903, was bloodless. The world knows that President Roosevelt forbade the Colombian troops to move across the Isthmus, while at the same time he would not allow the revolutionists to make any move. A similar situation had arisen in a former revolution in 1902. At that time the Colombian troops were disarmed, and three days later insurgent troops were prevented by United States marines from using the railroad and were actually compelled to leave a train which they had seized and entered. The principle was enunciated and maintained that no troops under arms should be transported on the railroad, no matter to which party they belonged. That was because to permit such transportation would be to make the railroad an adjunct to the side using it, and to subject it to attack by the other party. In this way, if the Colombian troops used it, the insurgents would have attacked, and the United States would either have been forced to permit such an attack, which might suspend traffic on the transit, or to prevent it with force, which would make this country an ally of Colombia against the insurgents. On the other hand, if the insur-
gents were permitted to use the railroad, Colombia would attack it, and in that case the United States would have to help repel the attack and thus would become the ally of the insurgents. It was, therefore, held that the only way to make the road absolutely neutral was to allow neither party to use it.

This was the doctrine under which President Roosevelt proceeded in 1903. Of course, the world knows that this was tantamount to preventing Colombia from reconquering the Isthmus, if that were possible. It is claimed by some that if President Roosevelt had allowed the insurgents to use the railroad in 1902, Colombia would have been defeated in that revolution.

At the time of the revolution it is said that the Colombian garrison which espoused the cause of the Panamans was bribed to do so; that their commander two days afterwards was paid $12,500 for his services, and that he is to this day drawing a pension of $2,400 a year. It is also charged that some of the troops who could not be bribed were sent into the interior to repel an imaginary invasion from Nicaragua. It is asserted that when the governor of the State of Panama telegraphed the Colombian Government that Nicaragua was invading Panama, the Bogota authorities sent additional troops to the Isthmus to help fight Nicaragua, and that this accounted for the arrival of the gunboats from Cartagena on the eve of the revolution.

At the time of the coup d'etat, the United States was living under a treaty made with Colombia in 1846, guaranteeing the sovereignty of that coun-
try over the Isthmus in return for the recognition of the rights of the United States, under the Monroe doctrine, in connection with the building of a canal. Under this treaty it was mutually agreed that the United States should keep the Isthmian transit free and open at all times. It was contended by President Roosevelt that he was only carrying out this provision when he refused to allow the revolutionists and the Federal troops to fight along the line of the Panama Railroad, although this was almost the only ground on the Isthmus on which military operations could be prosecuted. He admitted the justice of the contention of the Colombian Government that the United States undertook to guarantee the sovereignty of Colombia over the Isthmus so far as any alien power was concerned, but denied that it was ever intended that the United States should be called upon to guarantee it against the people of the Isthmus themselves.

Once the revolution was started three courses were left open to the United States: One was to force the Panamans back under Colombian rule; the second was to let the two sides fight to a finish; the third was to recognize the independence of the Republic of Panama and forbid Colombia to land troops on the Isthmus. President Roosevelt took the last course. A breezy Western congressman remarked in defense of that course: "When that jack rabbit jumped I am glad we didn't have a bowlegged man for President!" The result of the revolution, and the recognition of the independence of the Republic of Panama, was that Colombia, which had tried to
grasp everything and to get possession of the assets of the New Panama Canal Company, now found itself without anything.

Colombia ever since has contended that the United States was under a solemn obligation to protect the Colombian sovereignty over the Isthmus—an obligation that has been assumed in return for valuable considerations—and that it had been despoiled of the Isthmus of Panama under the very treaty that had guaranteed its permanent control of that Isthmus. It further asserted that President Roosevelt had been a party to the revolution for the purpose of circumventing the stand of the Republic of Colombia. It made a long plea against the action of the United States and urged that in the event the two countries could not come to any agreement, the pending questions should be submitted to The Hague for adjudication. Secretary Hay at one time proposed that a popular election should be held on the Isthmus to determine whether the people there preferred allegiance to the Republic of Panama or to the Republic of Colombia, but Colombia would not agree to that. Secretary Hay rejected the plea of Colombia for arbitration, upon the ground that the questions that Colombia proposed to submit affected the honor of the United States and that these matters were not arbitrable.

After Elihu Root became Secretary of State, he declared that the real gravamen of the Colombian complaint was the espousal of the cause of Panama by the people of the United States. He said that no arbitration could deal with the real rights and wrongs of the parties concerned, unless it were to
pass upon the question of whether the cause thus espoused was just — whether the people of Panama were exercising their just rights in maintaining their right of independence of Colombian rule. "We assert and maintain the affirmative upon that question," he declared. "We assert that the ancient State of Panama was independent in its origin, and by nature and history a separate political community; that it was federated with the other States of Colombia upon terms that preserved and continued its sovereignty, and that it never surrendered that sovereignty and was subjugated by force in 1885." Mr. Root further asserted that the United States was not "willing to permit any arbitrator to determine the political policy of the United States in following its sense of right and justice by espousing the cause of the Government of Panama against the Government of Colombia."

When Mr. Taft became President it was his desire to adjust our controversy with Colombia. His Secretary of State, Philander C. Knox, just before leaving office, declared that he had spared no efforts in seeking to restore American-Colombian relations to a footing of complete friendly feeling, but that these efforts had been rebuffed by the Colombian Government. He declared that it was undeniable that Colombia had suffered by its failure to reap a share of the benefits of the canal, and that the Government of the United States was entirely willing to take this consideration into account, and endeavor to accommodate the conflicting interests of the three parties by making a just compensation in money. In pursuance of
this idea three treaties were negotiated: One between the United States and the Republic of Colombia, one between the United States and the Republic of Panama, and one between the Governments of Colombia and Panama, all three being interdependent, to stand or to fall together. These treaties were negotiated at the instance of Colombia and were framed with every desire to accommodate their terms to the just expectations of that country. They were accepted by the Colombian Cabinet, but were not acted upon by the Colombian Congress.

In the Knox treaty negotiated with Colombia in 1910 that country proposed to agree to a popular election upon the separation of Panama and to abide by the result. The United States offered to sign an additional agreement to pay to Colombia $10,000,000 for a permanent option for the construction of an interoceanic canal through Colombian territory, and for the perpetual lease of the Islands of St. Andrews and Old Providence, if Colombia would ratify the treaties with the United States and Panama. This proposition was refused. It was then proposed that in addition to the $10,000,000 the United States would be willing to conclude with Colombia a convention submitting to arbitration the question of the ownership of the reversionary rights in the Panama Railroad — rights which the Colombian Government asserts that it possesses. In addition to this the United States offered its good offices to secure the settlement of the Panama-Colombia boundary dispute.

All of these propositions being rejected, the
Republic of Colombia was asked if it would be willing to accept $10,000,000 outright, in satisfaction of its claims against the United States. This was also refused.

Acting upon his own authority, the American minister then inquired if Colombia would accept $25,000,000, the good offices of the United States in its boundary controversy with Panama, the arbitration of the question of the reversionary rights in the Panama Railroad, and the gift of preferential rights in the use of the canal—all these in satisfaction of its claims. The Colombian Government replied that it would not do this and that it did not care to negotiate any further with the Taft administration, preferring to deal with the incoming Wilson administration.